

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**DIANA CAROL HEDRICK,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 3:13CV91  
(The Honorable Gina M. Groh)**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**REPORT AND RECOMMENDATION/OPINION**

On August 7, 2013, Plaintiff, *pro se*, filed a complaint in this matter [Docket Entry 1]. On October 21, 2013, Defendant Commissioner of Social Security filed an answer to the complaint and a copy of the transcript of the administrative record in this matter [Docket Entries 13 and 14]. Plaintiff's motion for summary judgment and brief in support of her claim were due to be filed on or before November 21, 2013. Plaintiff did not timely file her motion or brief. On November 26, 2013, the undersigned United States Magistrate Judge entered an order directing Plaintiff to file and serve her motion and brief in support of her claims on or before December 13, 2013 [Docket Entry 16]. Plaintiff was advised in said order that failure to file her motion for summary judgment and brief in support of her claims by that date would result in the undersigned entering a report and recommendation recommending to the District Judge that this case be dismissed for failure to prosecute in accord with the rules (*See* L.R.Civ.P 9.02(c)). A review of the docket shows that this Court's order of November 26, 2013, was received by Plaintiff on December 4, 2013 [Docket Entry 17].

Upon review of the docket as of December 17, 2013, the undersigned finds Plaintiff has not filed a brief or motion in support of her claim.

### **RECOMMENDATION**

For the above reasons, the undersigned respectfully **RECOMMENDS** that the Plaintiff's complaint [Docket Entry 1] be **DISMISSED WITH PREJUDICE** for failure to prosecute and for failure to comply with the Court's order of November 26, 2013.

Any party may, within fourteen (14) days after being served with a copy of this report and recommendation, file with the Clerk of the Court written objections identifying the portions of the report and recommendation to which objection is made and the basis for such objection. A copy of such objections should also be submitted to the Honorable Gina M. Groh, United States District Judge. Failure to timely file objections to the report and recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such report and recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to send a copy of this report and recommendation to Plaintiff, *pro se*, by certified mail, return receipt requested, and to counsel of record.

DATED: December 17, 2013

*s/ John S. Kaull*

JOHN S. KAULL  
UNITED STATES MAGISTRATE JUDGE